REMARKS

Claims 1-3, 5-16, 18-28, 30-41, and 43-52 are pending in the present application. Claims 1, 14, 26, 39, 51, and 52 are amended. Claims 4, 17, 29, and 42 were canceled previously in a Preliminary Amendment filed on August 8, 2005. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 103, Obviousness, Claims 1-3, 5, 7-16, 18, 20-28, 30, 32-41, 43, and 45-52

The Examiner has rejected claims 1-3, 5, 7-16, 18, 20-28, 30, 32-41, 43, and 45-52 under 35 U.S.C. § 103 as being unpatentable over Hubbard, U.S. Patent No. 6,654,783 ("Hubbard") in view of Gidwani, U.S. Patent No. 6,640,239 ("Gidwani"). This rejection is respectfully traversed.

The Examiner bears the burden of establishing a *prima facie* case of obviousness based on the prior art when rejecting claims under 35 U.S.C. § 103. *In re Fritch*, 972 F.2d 1260, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992). For an invention to be *prima facie* obvious, the prior art must teach or suggest all claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). The Examiner has not met this burden because all of the features of these claims are not found in the cited references as believed by the Examiner. Therefore, the combination of Hubbard and Gidwani would not reach the presently claimed invention recited in these claims.

Amended independent claim 1 of the present invention, which is representative of amended independent claims 14, 26, 39, 51, and 52, with regard to similarly recited subject matter, reads as follows:

> 1. A method of providing a subscription computing service to a subscriber computing system, comprising:
>
> initiating the subscription computing service based on subscription computing information, wherein subscription computing information identifies the subscription computing service to be provided to a subscriber, and wherein the subscription computing service to be provided to the subscriber is identified in a service agreement;
>
> determining if one or more spare resources are available to provide the subscription computing service by requesting system operation information from the subscriber computing system;

allocating a portion of the one or more spare resources if one or more spare resources are available; and

issuing an instruction to the subscriber computing system to perform at least one operation using the allocated portion of the one or more spare resources to thereby provide the subscription computing service based on the subscription computing information.

With regard to claim 1, the Examiner states:

As per claim 1, Hubbard teaches a method of providing a subscription computing service (fig. 1A) to a subscriber computing system (fig. 1, client system 108, 110 and 112), comprising:

initiating the subscription computing service based on subscription computing information (workload and tasks are sent clients based on the determination of the relative capabilities of the client systems. Depending upon the workload project results are provided to customers (subscribers) col. 6, lines 22-61; col. 7, lines 10-50 and col. 16, lines 10-36), wherein the subscription computing information identifies services to be provided to the subscriber (Hubbard teaches identifying the capabilities of the distributed devices and the aggregation of these capabilities to accomplish processing, storage, broadcasting or desired project objective (col. 4, lines 18-28; col. 5, lines 11-35 and col. 16, lines 10-36), determining (relative capabilities of the client system is determined) if one or more spare resources are available in the subscriber computing system [capabilities such as processing power, disk storage capacity, communication types and other capabilities that are available within the client system col. 7, lines 1-9 and col. 7, lines 46-62 col. 8, lines 1-11 and col. 16, lines 10-36];

allocating a portion of the one or more spare resources if one or more spare resources are available [client systems allow its capabilities to be utilized by the distributed processing system col. 5, lines 11-35 and col. 7, lines 1-9]; and issuing an instruction to the subscriber computing system to perform at least one operation using the allocated portion of the one or more spare resources to thereby provide the subscription computing service [workloads to be performed are selected for client systems. The workloads are controlled through an operational code. A capability vector database keeps track client systems and their capabilities col. 7, lines 1-13 and lines 63 to col. 8, line 11 and col. 16, lines 10-36].

Although Hubbard shows substantial features of the claimed invention, including identifying the capabilities of the distributed devices and the aggregation of these capabilities to accomplish processing, storage, broadcasting or desired project objective as explained above, he does not explicitly show wherein the services provided to the subscriber are identified in a service agreement.

Nonetheless, this feature is well known in the art and would have been an obvious modification of the system disclosed by Hubbard, as evidenced by Gidwani USPN. (6640239).

> In analogous art, Gidwani whose invention is about providing plurality of services to subscriber using a UIP client, disclose services provided to the subscriber using a UIP client, disclose services provided to the subscriber are identified in a service agreement (fig.25a and 25b col. 61 lines 1-45. see also col. 7, lines 1-6 and col. 8, lines 28-38).
> Giving the teaching of Gidwani, a person of ordinary skill in the art would have readily recognized the desirability and the advantage of modifying Hubbard by employing the system of Gidwani because it allows subscribers to utilize resources based on their needs and the service providers can simply monitor total processing utilization numbers and total load factors to determine over-subscription and resource allocation needs of the network. In this way a new means and level of network performance prediction and control is achieved.

Office Action dated October 7, 2005, pages 3-5.

Hubbard teaches "a method for indexing network site content with a distributed parallel processing system that identifies the capabilities of distributed devices connected together through a wide variety of communication systems and networks and utilizes those capabilities to provide incentives to the distributed devices and to organize, manage and distribute project workloads to the distributed devices." Hubbard, column 2, line 64 – column 3, line 4. In other words, Hubbard:

> ...contemplates the identification of the capabilities of distributed devices connected together through a wide variety of communication systems and networks and the aggregation of these capabilities to accomplish processing, storage, broadcasting or any other desired project objective. For example, distributed devices connected to each other through the Internet, an intranet network, a wireless network, or any other network may provide any of a number of useful capabilities to third parties once their respective capabilities are identified, organized, and managed for a desired task.

Hubbard, column 4, lines 18-28.

Also, "[a]s indicated above, to encourage owners or users of client systems to allow their system capabilities to be utilized by the control system, an incentive system may be utilized." Hubbard, column 11, lines 7-9. Consequently, Hubbard teaches a method for indexing and managing available client resources in a distributed device environment to accomplish tasks for third party customers and for providing incentives to

encourage clients to allow the use of their systems for the benefit of third party customers.

In contrast, claim 1 of the present invention recites a method of providing a subscription computing service to a subscriber computing system. The subscription computing service is provided by initiating the subscription computing service based on subscription computing information, wherein subscription computing information identifies the subscription computing service to be provided to a subscriber, and wherein the subscription computing service to be provided to the subscriber is identified in a service agreement, determining if one or more spare resources are available to provide the subscription computing service by requesting system operation information from subscriber computing systems, and allocating a portion of the one or more spare resources to perform at least one operation to provide the subscription computing service as recited in claim 1. In other words, the present invention utilizes subscriber resources, in a peer-to-peer computation model, to perform subscription computing tasks for other subscribers. Support for this feature may be found in the specification on page 2, lines 5-15.

Hubbard instead utilizes client system resources, in a distributed device model, to perform tasks for third party customers. For example, Hubbard teaches that the client systems are connected to a network in order to provide processing capabilities in response to requests from third party customer systems, as illustrated in figures 1A and 1B of Hubbard below:

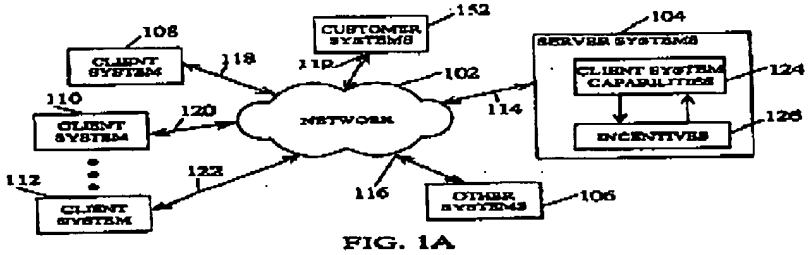

FIG. 1A

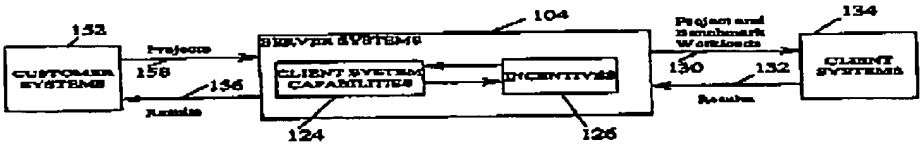

FIG. 1B

As figures 1A and 1B of Hubbard show above, third party customer systems 152 send projects 158 to server systems 104 where server system 104 determines incentives 126 based upon client system capabilities 124. Then, server systems 104 sends project 130 to client systems 134 for processing. Client systems 134 sends back results 132 to server systems 104 where server systems 104 forwards results 156 to third party customer 152. As is evident from the cited passages and figures 1A and 1B of Hubbard above, client systems 134 do not request any services to be performed. Consequently, client systems 134 cannot perform services for other client systems. Client systems 134 only perform services for third party customers.

Thus, Hubbard teaches that third party customers benefit from client systems task performance and not other client systems. In addition, Hubbard does not teach or suggest that third party customer systems provide processing capabilities for other third party customer systems or for the client systems. Therefore, Hubbard fails to teach a method of providing a subscription computing service to a subscriber computing system as recited in claim 1 of the present invention.

Hubbard does teach that the client systems and the customer systems may communicate directly with each other in peer-to-peer type communication. Hubbard, column 19, lines 29-32. The peer-to-peer type communication as taught by Hubbard is not analogous to the peer-to-peer resource allocation of the present invention. As shown above, third party customer systems do not provide services for the client systems, nor do the client systems provide services for other client systems, but that the client systems provide services only for the third party customer systems as taught by Hubbard, whereas subscriber computing systems provide subscription computing service for other subscriber computing systems as recited in claim 1.

Further, Hubbard fails to teach initiating the subscription computing service based on subscription computing information, wherein subscription computing information identifies services to be provided to a subscriber as recited in claim 1. In other words, claim 1 recites that the subscriber computing system performs subscription computing tasks for the subscriber based on subscription computing information. Hubbard does not teach or suggest that third party customer systems are provided a subscription computing service based on subscription computing information. As figure 1B depicts above,

Hubbard teaches that third party customer systems send projects to a server system and then the server system sends the projects to the client systems for processing without regard to subscription computing information that identifies what subscription computing service is to be provided to the subscriber as recited in claim 1.

Hubbard teaches that the server system provides incentives to the client systems based on workload completion or system capabilities. Hubbard, column 11, lines 10-19. In other words, client incentives provide the rationale for the client systems to perform the projects for the third party customer systems as taught by Hubbard. In essence, Hubbard teaches that the server system pays the client systems for allowing the third party customer systems to perform tasks on the client systems. Hence, the client systems perform the third party customer projects based on incentives supplied by the server system and not based on subscription computing information that identifies the subscription computing service to be provided to the subscriber as recited in claim 1. Therefore, Hubbard fails to teach or suggest this feature recited in claim 1.

The Examiner cites Hubbard, column 4, lines 18-28, as teaching this claim 1 feature. This Examiner-cited passage from Hubbard teaches that the capabilities of distributed devices, or client systems, are identified and that the aggregation of these capabilities are used to accomplish processing, storage, and the like. In other words, Hubbard teaches that the client system capabilities are identified and that the identified capabilities are used to perform tasks. However, the identification of client system capabilities to accomplish tasks for third party customers as taught by Hubbard is distinguishable from the identification of the subscription computing service to be provided to the subscriber based upon subscription computing information as recited in claim 1. Identifying client system capabilities to perform tasks is not analogous to identifying subscription computing services to be provided to subscribers.

Moreover, Hubbard fails to teach or suggest that the subscription computing service provided to the subscriber is identified in a service agreement as further recited in claim 1. Applicants agree with the Examiner that Hubbard "does not explicitly show wherein the services provided to the subscriber are identified in a service agreement. Office Action, page 5. In the present invention, the subscription computing information identifies the subscription computing service to be provided to the subscriber and the

subscription computing service provided to the subscriber is identified in a service agreement as recited in claim 1. Hubbard makes no reference to using a service agreement to identify services to be provided to third party customer systems. Therefore, Hubbard also fails to teach that the provided third party customer system services are identified in a service agreement as recited in amended claim 1.

In addition, Hubbard does not teach or suggest that spare resource availability is determined by requesting system operation information from the subscriber computing system, as recited in claim 1. Rather, Hubbard teaches that:

> ...along with receiving the workload, the client system will also receive an agent that manages the completion of the workload. This agent may be software that is customized for the particular computer system and processing capabilities of the client system.... When the agent determines that there is unused processing or other capabilities, the agent may take advantage of it. For example, if the user is using a word processing application to create a document, little processing power is being utilized by the word processing program, leaving the computer's CPU and video processor underutilized. Thus, the agent could execute commands to these processors during dead cycles. In this way, the agent may facilitate the completion of workload processing in a reduced time.

Hubbard, column 7, line 63 -- column 8, line 12.

As the passage from Hubbard demonstrates above, the embedded agent in the client system automatically manages the unused resources of the client system. This automatic resource management by an embedded agent in the client system as taught by Hubbard is not analogous to determining spare resource availability by requesting system operation information from the subscriber computer system as recited in claim 1. In Hubbard, no client system resource availability request is made; the embedded agent in the client system performs resource management automatically. Thus, Hubbard teaches that client resources are automatically used without a request for client system operation information from the client system because the embedded agent has already established client resource availability for third party customer projects. Consequently, Hubbard also fails to teach or suggest that spare resource availability is determined by requesting system operation information from the subscriber computing system as recited in claim 1 of the present invention.

Turning now to the Gidwani prior art reference, Gidwani teaches a system that includes a unified Internet portal server having multi-line capability, and a unified Internet portal client incorporating functionality of a customer premise equipment digital subscriber line modem, wherein the unified Internet portal client is capable of communicating with the unified Internet portal server via a network to provide a service to a subscriber using the unified Internet portal client. Gidwani, Abstract. When the subscriber requests a service, the subscriber chooses the class of service, such as a voice over Internet protocol call over a public switched telephone network, a regular local public switched telephone network call, a voice over Internet protocol call over the Internet, a video on demand movie, or a remote video recorded program. Gidwani, column 61, lines 23-27 and figures 1-2. The cost to the subscriber for the service is based upon an agreement contract between the subscriber and the service provider. Gidwani, column 61, lines 42-45. In other words, Gidwani teaches that a service provider provides voice and video services to a subscriber over a network based upon a service agreement.

Even though Gidwani teaches the use of a service agreement to determine the cost of voice and video services provided to a subscriber by a service provider, Gidwani does not teach or suggest initiating a subscription computing service to a subscriber computing system based on subscription computing information as recited in claim 1 of the present invention. Gidwani makes no reference to providing a subscription computing service. Because Gidwani does not teach or suggest initiating a subscription computing service, Gidwani cannot teach or suggest that the subscription computing service to be provided to the subscriber is identified in a service agreement as further recited in claim 1.

Furthermore, Gidwani does not teach or suggest determining if one or more spare resources are available to provide the subscription computing service by requesting system operation information from the subscriber computing system, allocating a portion of the one or more spare resources if one or more spare resources are available, and issuing an instruction to the subscriber computing system to perform at least one operation using the allocated portion of the one or more spare resources to thereby provide the subscription computing service based on the subscription computing information as further recited in claim 1. Consequently, Gidwani does not teach or suggest the above recited claim 1 features either.

Therefore, in view of the arguments above, the combination of Hubbard and Gidwani does not teach or suggest all claim limitations recited in claim 1 of the present invention. Accordingly, the rejection of independent claims 1, 14, 26, 39, 51, and 52 as being unpatentable over Hubbard in view of Gidwani has been overcome.

Thus, amended independent claims 1, 14, 26, 39, 51, and 52 are in condition for allowance. Claims 2, 3, 5, 7-13, 15, 16, 18, 20-25, 27, 28, 30, 32-38, 40, 41, 43, and 45-50 are dependent claims depending on independent claims 1, 14, 26, and 39, respectively. Consequently, claims 2, 3, 5, 7-13, 15, 16, 18, 20-25, 27, 28, 30, 32-38, 40, 41, 43, and 45-50 also are allowable, at least by virtue of their dependence on allowable claims. Therefore the rejection of 1-3, 5, 7-16, 18, 20-28, 30, 32-41, 43, and 45-52 as being unpatentable over Hubbard in view of Gidwani has been overcome.

II. 35 U.S.C. § 103, Obviousness, Dependent Claims 6, 19, 31, and 44

The Examiner has rejected dependent claims 6, 19, 31, and 44 under 35 U.S.C. § 103 as being unpatentable over Hubbard in view of Gidwani and further in view of Lettvin, U.S. Patent No. 5,559,960 ("Lettvin"). This rejection is respectfully traversed.

As shown in Section I above, Hubbard and Gidwani do not teach or suggest all claim limitations recited in amended independent claims 1, 14, 26, and 39. In particular, Hubbard and Gidwani do not teach or suggest a method of providing a subscription computing service to a subscriber computing system that includes initiating the subscription computing service based on subscription computing information, wherein subscription computing information identifies the subscription computing service to be provided to a subscriber, and wherein the subscription computing service to be provided to the subscriber is identified in a service agreement, determining if one or more spare resources are available to provide the subscription computing service by requesting system operation information from the subscriber computing system, allocating a portion of the one or more spare resources if one or more spare resources are available, and issuing an instruction to the subscriber computing system to perform at least one operation using the allocated portion of the one or more spare resources to thereby provide the subscription computing service based on the subscription computing

information as recited in amended claim 1 of the current invention. These features also are not taught or suggested in Lettvin.

Therefore, since Hubbard, Gidwani, and Lettvin do not teach or suggest a method of providing a subscription computing service to a subscriber computing system that includes initiating the subscription computing service based on subscription computing information, wherein subscription computing information identifies the subscription computing service to be provided to a subscriber, and wherein the subscription computing service to be provided to the subscriber is identified in a service agreement, determining if one or more spare resources are available to provide the subscription computing service by requesting system operation information from the subscriber computing system, allocating a portion of the one or more spare resources if one or more spare resources are available, and issuing an instruction to the subscriber computing system to perform at least one operation using the allocated portion of the one or more spare resources to thereby provide the subscription computing service based on the subscription computing information as recited in the independent claims, then the combination of Hubbard, Gidwani, and Lettvin cannot teach or suggest these recited features. As a result, claims 6, 19, 31, and 44 of the present invention also are allowable at least by virtue of their dependence upon allowable claims. Accordingly, the rejection of claims 6, 19, 31, and 44 as being unpatentable over Hubbard in view of Gidwani and further in view of Lettvin has been overcome.

III. Conclusion

It is respectfully urged that the subject application is patentable over the cited prior art references and is now in condition for allowance.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

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